

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Juan J. Rodriguez,
Petitioner,
v.

05 Civ. 8283 (LJL)

United States of America,
Respondent.

United States of America,

97 Cr. 1053-23 (LJL)

Juan J. Rodriguez,
Defendant-Petitioner.

Order re: Attorney-Client Privilege Waiver (Informed Consent)

WHEREAS Juan J. Rodriguez (“Petitioner”) has filed a petition for a writ of error *coram nobis*, seeking to vacate his conviction under 21 U.S.C. §§ 846 and 841(a)(1) based in part on allegations of ineffective assistance of counsel by his former defense counsel, Robert M. Baum (the “Petition”); and

WHEREAS the Government, after reviewing the motion papers, has concluded that the testimony of Mr. Baum will be needed to allow the Government to respond to the petition; and

WHEREAS the Court, after reviewing the motion papers, is satisfied that the testimony of Mr. Baum is needed to allow the Government to respond to the petition; and

WHEREAS by filing the petition, Petitioner has waived the attorney-client privilege as a matter of law; and

WHEREAS the Court is cognizant that, absent court order, ethical concerns may inhibit Mr. Baum from disclosing confidential information relating to a prior client even in the absence of a privilege, *see, e.g.*, ABA Standing Comm. on Ethics and Prof. Responsibility Formal Op. 10-456 (July 14, 2010), *Disclosure of Information to Prosecutor When Lawyer's Former Client Brings Ineffective Assistance of Counsel Claim*,

WHEREAS Petitioner Juan J. Rodriguez executed the "Attorney-Client Privilege Waiver (Informed Consent)" form on March 4, 2024, which was published to ECF on March 6, 2024,

IT IS HEREBY ORDERED that the Government shall serve a copy of this Order on Mr. Baum and file proof of service on the docket and within 30 days of service of this Order, Mr. Baum shall give sworn testimony, in the form of an affidavit or affirmation, addressing the allegations of ineffective assistance of counsel made by Petitioner; and it is further

ORDERED that the Government shall be permitted 30 days from the receipt of said executed affidavits or affirmations from Mr. Baum to file its opposition and any additional supporting papers with this Court; and it is further

[CONTINUED ON THE NEXT PAGE]

ORDERED that the Clerk of the Court serve a copy of this Order on Petitioner Rodriguez.

Dated: September 9, 2024

New York, New York



HON. LEWIS J. LIMAN
UNITED STATES DISTRICT JUDGE